



AGREEMENT NUMBER	AM. NO.
TAXPAYERS FEDERAL EMPLOYER IDENTIFICATION NO.	

# STANDARD AGREEMENT

(RA 3/2018)

THIS AGREEMENT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2023 in the State of California, by and between the San Francisco Bay Restoration Authority, a regional public entity, through its duly appointed

TITLE OF OFFICER ACTING FOR PUBLIC ENTITY <b>Executive Officer</b>	PUBLIC ENTITY <b>San Francisco Bay Restoration Authority</b>	, hereafter called the Authority, and
GRANTEE'S NAME		, hereafter called the Grantee.

The Grantee and the Authority hereby agree as follows:

## SCOPE OF AGREEMENT

Pursuant to the San Francisco Bay Restoration Authority Act, California Government Code § 66700-66706, the San Francisco Bay Restoration Authority (“the Authority”) hereby grants to the **Port of San Francisco** (“the grantee”) a sum not to exceed **\$796,100**, subject to this agreement. The grantee shall use these funds to complete the following project (“the project”) at **Heron’s Head Park, San Francisco, CA** as shown on Exhibit 1, which is incorporated by reference and attached.

*(Continued on following pages)*

The provisions on the following pages constitute a part of this agreement.  
IN WITNESS WHEREOF, this agreement has been executed by the parties hereto, upon the date first above written.

GRANTOR	GRANTEE
AGENCY <b>San Francisco Bay Restoration Authority</b>	GRANTEE (If other than an individual, state whether a corporation, partnership, etc.) <b>Port of San Francisco</b>
BY (Authorized Signature) 	BY (Authorized Signature) 
PRINTED NAME AND TITLE OF PERSON SIGNING <b>Amy Hutzel, Executive Officer</b>	PRINTED NAME AND TITLE OF PERSON SIGNING <b>Elaine Forbes, Executive Director</b>
ADDRESS & PHONE NUMBER 1515 Clay Street, 10 <sup>th</sup> Floor Oakland, CA 94612 Phone: (510) 286-1015	ADDRESS <b>Port of San Francisco, Pier 1-The Embarcadero San Francisco, CA94111</b> Phone: (415)274-0568

AMOUNT ENCUMBERED BY THIS DOCUMENT <b>\$796,100</b>	PROGRAM/CATEGORY (CODE AND TITLE) <b>Measure AA</b>
PRIOR AMOUNT ENCUMBERED FOR THIS AGREEMENT <b>\$-0-</b>	WORK ITEM NUMBER
TOTAL AMOUNT ENCUMBERED TO DATE <b>\$</b>	PROJECT NAME <b>Heron’s Head Park Shoreline Resilience</b>

*I hereby certify upon my own personal knowledge that budgeted funds are available for the period and purpose of the expenditure stated above.*

PRINTED NAME AND TITLE OF PERSON SIGNING <b>Elaine Forbes, Executive Director, Port of San Francisco</b>	SIGNATURE 	DATE
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GRANTEE     ACCOUNTING     PROJECT MANAGER     AGREEMENT FILE

## **PROJECT SUMMARY**

Heron's Head Park (park) is in the City and County of San Francisco along the Bay shoreline (Exhibit 1). It contains a mosaic of shoreline habitats including tidal marsh, mudflats, tidal ponds, rocky intertidal habitat, and various subtidal habitats that support a diversity of San Francisco Bay wildlife. In addition, the park contains an environmental education center (EcoCenter) and a spur of Bay Trail, providing the adjacent communities a unique space for environmental education and outdoor recreation along a highly industrialized shoreline. The park's shoreline is estimated to have retreated 50 feet since 1998, and one tidal pond is consistently flooded instead of tidally flushed. Tidally flushed ponds are important because they support a diversity of invertebrates, which also provide food for birds. The Heron's Head Shoreline Resilience Project (the project) as a whole will implement nature-based solutions along the Bay shoreline that are designed to prevent habitat loss due to erosion and sea level rise, enhance wetland habitat, provide paid internships to members of the adjacent communities, engage the adjacent communities in stewardship of the project area, and monitor and report on project performance for ten years.

The subject phase of the Heron's Head Park Shoreline Resilience Project that will be funded by this grant consists of ten years of postconstruction monitoring and reporting on project performance. Monitoring and reporting on the performance of the project is particularly important given its innovative nature-based design, which was developed in collaboration with staff of the Restoration Authority and the Bay Restoration Regulatory Integration Team (BRRIT). The design deviates from traditional shoreline armoring structures that disrupt natural processes. Instead, it implements "nature-based solutions," which use natural and/or constructed materials to mimic natural features that stabilize and restore the ecological functions of the shoreline. The project will place coarse sediment to create beaches at the bayward edge of the marshes, and use additional structures, such as rock groynes, large woody debris, and subtidal oyster reef balls, to protect and enhance shoreline habitat. This concept is being tested in several locations around San Francisco Bay. This project will provide information that will be useful to the Regionally Advancing Living Shorelines Project, a collaborative effort funded by the Authority in June 2022.

The grantee shall carry out the project in accordance with this agreement and a work program, as provided in the "WORK PROGRAM" section, below. The grantee shall provide any funds beyond those granted under this agreement which are needed to complete the project.

## **CONDITIONS PRECEDENT TO CONSTRUCTION AND DISBURSEMENT**

The grantee shall not begin construction of the project, and the Authority shall not be obligated to disburse any funds unless and until the following conditions precedent have been met:

1. The grantee has adopted a resolution designating positions whose incumbents are authorized to negotiate and execute this agreement and amendments to it on behalf of the grantee.
2. The Executive Officer of the Authority ("the Executive Officer") has approved in writing:

- a. A work program for the project, as provided in the “WORK PROGRAM” section, below.
  - b. A plan for installation of signs and acknowledgment of Authority support, as provided in the “SIGNS AND ACKNOWLEDGMENT” section, below.
  - c. All contractors that the grantee intends to retain in connection with the project.
3. The grantee has provided written evidence to the Authority that:
- a. All permits and approvals necessary to the completion of the project under applicable local, state and federal laws and regulations have been obtained.
  - b. The grantee has provided for required insurance coverage, including additional insured endorsement, as described in the “INSURANCE” section, below.

### **ADDITIONAL GRANT CONDITIONS**

The grantee shall also meet the following conditions:

1. The Publication of Project Information. The grantee shall upload project information, including periodic monitoring data, to the project tracker for “EcoAtlas”, an online database and web-based viewer of stream and wetland maps, restoration information, and monitoring results (currently available at <http://ptrack.ecoatlas.org/>), to track project information and aggregate data.
2. Using the Lessons Learned Report form provided by the Authority and in accordance with the deadline set forth in the PROJECT COMPLETION section, below, the grantee shall submit a report describing whether the project met the project goals and information learned from project implementation that could help others more effectively implement similar projects.

### **TERM OF AGREEMENT**

This agreement shall take effect when signed by both parties and received in the offices of the Authority together with the resolution described in the “CONDITIONS PRECEDENT TO CONSTRUCTION AND DISBURSEMENT” section of this agreement. This agreement may be signed using an electronic process specified by the Authority.

This agreement shall run from its effective date through **December 31, 2033** (“the termination date”) unless otherwise terminated or amended as provided in this agreement. However, all work shall be completed by **September 30, 2033** (“the completion date”). The grantee shall submit a final Request for Disbursement no later than **October 31, 2033**.

## **AUTHORIZATION**

The signature of the Executive Officer of the Authority on this agreement certifies that at its **October 14, 2022** meeting, the Authority adopted the resolution included in the staff recommendation attached as Exhibit 2. This agreement is executed under that authorization.

## Standard Provisions

### WORK PROGRAM

Before beginning construction, the grantee shall submit a detailed work program to the Executive Officer for review and written approval of its consistency with the purposes of this grant agreement. The work program shall include:

1. Site Plan.
  1. A schedule of completion for the project specifically listing the completion date for each project component and a final project completion date.
  2. A detailed project budget. The project budget shall describe all labor and materials costs of completing each component of the project, including the grantee's labor and materials costs and costs to be incurred under a contract with any third party retained by the grantee for work under this agreement. For each project component, the project budget shall list all intended funding sources, including the Authority's grant, and all other sources of monies, materials, or labor. The grantee shall review the plans on-site with Authority staff.

If all or any part of the project to be funded under this agreement will be performed by third parties ("contractors") under contract with the grantee, then the grantee shall, prior to initiating any contractor selection process, submit the selection package, including any applicable construction plans and specifications that have been certified or approved as described above, to the Executive Officer for review and written approval as to consistency with the purposes of this grant agreement. Upon approval by the Executive Officer, the grantee shall proceed with the contractor selection process. Prior to final selection of a contractor, the grantee shall submit to the Executive Officer for written approval the names of all contractors that the grantee intends to hire. The grantee shall then comply with the above paragraph regarding submission and approval of a work program prior to construction.

The work program shall have the same effect as if included in the text of this agreement. However, the work program may be modified without amendment of this agreement upon the grantee's submission of a modified work program and the Executive Officer's written approval of it. If this agreement and the work program are inconsistent, the agreement shall control.

The grantee shall construct the project in accordance with the approved work program.

### SIGNS AND ACKNOWLEDGMENT

Prior to beginning the project, the grantee shall submit a plan to the Executive Officer for the installation of signs and acknowledgment of Authority support. Except as the Executive Officer agrees otherwise, the plan shall commit the grantee to mention the Authority's support in its project-related press releases, contacts with the media, and social media postings, and on its website.

The grantee shall install and maintain a sign or signs visible from the nearest public roadway identifying the project, acknowledging Authority assistance and displaying the Authority's logo, and directing the public to the project. The Authority shall provide to the grantee specifications for the signs. The grantee may incorporate the required information into other signs as approved by the Executive Officer. In special circumstances, where the placement of signs or the general specifications are inappropriate, the Executive Officer may approve alternative, more appropriate methods for acknowledging the sources of funding. The grantee shall submit plans describing the number, design, placement and wording of the signs, or the specifications of a proposed, alternative method. The Authority will withhold final disbursement until the signs are installed in accordance with the approved plan.

### **COSTS AND DISBURSEMENTS**

When the Authority determines that all "CONDITIONS PRECEDENT TO CONSTRUCTION AND DISBURSEMENT" have been fully met, the Authority shall disburse to the grantee, in accordance with the approved project budget, a total amount not to exceed the amount of this grant, as follows:

The withholding for this agreement is ten percent. The Authority shall disburse funds for costs incurred to date, less ten percent, upon the grantee's satisfactory progress under the approved work program, and upon the grantee's submission of a "Request for Disbursement" form, which shall be submitted no more frequently than monthly but no less frequently than quarterly. The Authority's fiscal year ends on June 30. For all costs the grantee incurs through the end of the Authority's fiscal year, Requests for Disbursement shall be submitted by July 20th. The Authority shall disburse the ten percent withheld upon the grantee's satisfactory completion of construction and compliance with the "PROJECT COMPLETION" section, below, and upon the Authority's acceptance of the project.

The Authority will reimburse the grantee for expenses necessary to the project when documented by appropriate receipts. The Authority will reimburse travel and related expenses at actual costs not to exceed the rates provided in Title 2, Division 1, Chapter 3, Subchapter 1, Article 2 of the California Code of Regulations ("CCR"), except that reimbursement may be in excess of these rates upon documentation that these rates are not reasonably available to the grantee. Reimbursement for the cost of operating a private vehicle shall not, under any circumstance, exceed the current rate specified by the State of California for unrepresented state employees as of the date the cost is incurred. The Authority will reimburse the grantee for other necessary expenses if those expenses are reasonable in nature and amount taking into account the nature of the project, its location, and other relevant factors.

The grantee shall request disbursements by filing with the Authority a fully executed "Request for Disbursement" form (available from the Authority). The grantee shall include in the form its name and address, the number of this agreement, the date of the submission, the amount of the invoice, the period during which the work was actually done, and an itemized description, including time, materials, and expenses incurred of all work done for which disbursement is requested. Hourly rates billed to the Authority, and specified in the approved work program

budget shall be equal to the actual compensation paid by grantee to employees, which may include employee benefits. The form shall also indicate cumulative expenditures to date, expenditures during the reporting period, and the unexpended balance of funds under the grant agreement.

An authorized representative of the grantee shall sign the forms. Each form shall be accompanied by:

1. All receipts and any other source documents for direct expenditures and costs that the grantee has incurred.
2. Invoices from contractors that the grantee engaged to complete any portion of the work funded under this agreement and any receipts and any other source documents for costs incurred and expenditures by any such contractor, unless the Executive Officer makes a specific exemption in writing.
3. A supporting progress report summarizing the current status of the project and comparing it to the status required by the work program (budget, timeline, tasks, etc.) including written substantiation of completion of the portion of the project for which the grantee is requesting disbursement.

The grantee's failure to fully execute and submit a Request for Disbursement form, including attachment of supporting documents, will relieve the Authority of its obligation to disburse funds to the grantee until the grantee corrects all deficiencies.

### **EXPENDITURE OF FUNDS AND ALLOCATION OF FUNDING AMONG BUDGET ITEMS**

The total amount of this grant may not be increased except by written amendment to this agreement. The grantee shall expend funds consistent with the approved project budget. Expenditure on items contained in the approved project budget, other than overhead and indirect costs, may vary by as much as ten percent without prior approval by the Executive Officer, provided that the grantee first submits a revised budget to the Authority and requests disbursement based on the revised budget. Any deviation greater than ten percent, and any deviation that shifts funds from approved budget items into an overhead or indirect costs category, must be identified in a revised budget approved in advance and in writing by the Executive Officer. The Authority may withhold payment for items that exceed the amount allocated in the project budget by more than ten percent and which have not received the approval required above. Any increase in the funding for any particular budget item shall mean a decrease in the funding for one or more other budget items unless there is a written amendment to this agreement.

## **PROJECT COMPLETION**

Within thirty days of completion of construction of the project, the grantee shall supply the Authority with evidence of completion by submitting a final report which includes:

1. A report by the grantee's project manager certifying completion of the project according to the approved work program.
2. Documentation that signs are installed as required by the "SIGNS AND ACKNOWLEDGMENT" section of this agreement.
3. A fully executed final "Request for Disbursement."
4. Photographs documenting project completion.
5. The Lessons Learned Report.

Within thirty days of grantee's submission of the above, the Authority shall determine whether the grantee has satisfactorily completed the project. If so, the Authority shall issue to the grantee a letter of acceptance of the project. The project shall be deemed complete as of the date of the letter.

## **EARLY TERMINATION, SUSPENSION AND FAILURE TO PERFORM**

Before the project has commenced, either party may terminate this agreement for any reason by providing the other party with seven days notice in writing.

Before the project is complete, the Authority may terminate or suspend this agreement for any reason by providing the grantee with seven days notice in writing. In either case, the grantee shall immediately stop work under the agreement and take all reasonable measures to prevent further costs to the Authority. The Authority shall be responsible for any reasonable and non-cancelable obligations incurred by the grantee in the performance of this agreement prior to the date of the notice to terminate or suspend, but only up to the undisbursed balance of funding authorized in this agreement. Any notice suspending work under this agreement shall remain in effect until further written notice from the Authority authorizes work to resume.

Before the project is complete, the grantee may terminate this agreement for any reason by providing the Authority with seven days notice in writing and repaying to the Authority all amounts disbursed by the Authority under this agreement. The Authority may, at its sole discretion, consider extenuating circumstances and allow early termination without repayment for work partially completed.

The parties expressly agree to waive, release and relinquish the recovery of any consequential damages that may arise out of the termination or suspension of this agreement under this section.



If the grantee fails to complete the project as required or fails to fulfill any other obligations of this agreement, the grantee shall be liable for immediate repayment to the Authority of all amounts disbursed by the Authority under this agreement. The Authority may, at its sole discretion, consider extenuating circumstances and not require repayment for work partially completed. This paragraph shall not be deemed to limit any other remedies the Authority may have for breach of this agreement.

The grantee shall include in any agreement with any contractor retained for work under this agreement a provision that entitles the grantee to suspend or terminate the agreement with the contractor for any reason on written notice and on the same terms and conditions specified in this section.

### **OPERATION AND MAINTENANCE**

The grantee shall use, manage, maintain and operate the project throughout the term of this agreement consistent with the purposes for which the Authority's grant was made. The grantee assumes all operation and maintenance costs of these facilities and structures; the Authority shall not be liable for any cost of maintenance, management, or operation. The grantee may be excused from its obligations for operation and maintenance during the term of this agreement only upon the written approval of the Executive Officer.

For purposes of this agreement, "operation costs" include direct costs incurred for material and labor needed for operations, utilities, insurance, and similar expenses. "Maintenance costs" include ordinary repairs and replacements of a recurring nature necessary to prolong the life of capital assets and basic structures, and the expenditure of funds necessary to replace or reconstruct capital assets or basic structures.

### **MITIGATION**

Without the written permission of the Executive Officer, the grantee shall not use or allow the use for mitigation (in other words, to compensate for adverse changes to the environment elsewhere) of any portion of real property on which the Authority has funded construction. In providing permission, the Executive Officer may require that all funds generated in connection with any authorized or allowable mitigation on the real property shall be remitted promptly to the Authority. As used in this section, mitigation includes, but is not limited to, any use of the property in connection with the sale, trade, transfer or other transaction involving carbon sequestration credit or carbon mitigation.

### **INSPECTION**

Throughout the term of this agreement, the Authority shall have the right to inspect the project area to ascertain compliance with this agreement.

## **INDEMNIFICATION AND HOLD HARMLESS**

The grantee shall be responsible for, indemnify and hold harmless the Authority, its officers, agents, and employees from any and all liabilities, claims, demands, damages, or costs, including, without limitation, litigation costs and attorneys fees, resulting from or arising out of the willful or negligent acts or omissions of the grantee, its officers, agents, contractors, subcontractors, and employees, or in any way connected with or incident to this agreement, except for the active negligence of the Authority, its officers, agents, or employees. The duty of the grantee to indemnify and hold harmless includes the duty to defend as provided in Civil Code section 2778. This agreement supersedes any right the grantee may have as a public entity to indemnity and contribution as provided in Gov. Code Sections 895 et seq.

The grantee waives any and all rights to any type of express or implied indemnity or right of contribution from the Authority, its officers, agents, or employees, for any liability resulting from, growing out of, or in any way connected with or incident to this agreement.

Nothing in this agreement is intended to create in the public or in any member of it rights as a third-party beneficiary under this agreement.

The obligations in this “INDEMNIFICATION AND HOLD HARMLESS” section shall survive termination of this agreement.

## **INSURANCE**

The grantee shall procure and maintain insurance, as specified in this section, against claims for injuries to persons and damage to property that may arise from or in connection with any activities of the grantee or its agents, representatives, employees, volunteers, or contractors associated with the project undertaken pursuant to this agreement.

As an alternative, with the written approval of the Executive Officer, the grantee may satisfy the coverage requirement in whole or in part through: (a) its contractors’ procurement and maintenance of insurance for work under this agreement, if the coverage otherwise fully satisfies the requirements of this section; or (b) the grantee’s participation in a “risk management” plan, self insurance program or insurance pooling arrangement, or any combination of these, if consistent with the coverage required by this section.

The grantee shall maintain property insurance, if required below, throughout the term of this agreement. Any required errors and omissions liability insurance shall be maintained from the effective date through two calendar years after the completion date. The grantee shall maintain all other required insurance from the effective date through the completion date.

1. Minimum Scope of Insurance. Coverage shall be at least as broad as:

- a. Insurance Services Office (“ISO”) Commercial General Liability coverage, occurrence basis (Form CG 00 01) or comparable.
  - b. Automobile Liability coverage: ISO Form Number CA 0001, Code 1 (any auto).
  - c. Workers’ Compensation insurance as required by the Labor Code of the State of California.
2. Minimum Limits of Insurance. The grantee shall maintain coverage limits no less than:
- a. General Liability: *(Including operations, products and completed operations, as applicable)* \$2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the activities under this agreement, or the general aggregate limit shall be twice the required occurrence limit.
  - b. Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.
3. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the Executive Officer.
4. Required Provisions Concerning the Authority.
- a. Each insurance policy required by this section shall be endorsed to state that coverage shall not be canceled by either party, except after thirty days’ prior written notice by first class mail has been given to the Authority; or in the event of cancellation of coverage due to nonpayment, after ten days prior written notice to the Authority. The grantee shall notify the Authority within two days of receipt of notice that any required insurance policy will lapse or be cancelled. At least ten days before an insurance policy held by the grantee lapses or is cancelled, the grantee shall provide the Authority with evidence of renewal or replacement of the policy.
  - b. The grantee hereby grants to the Authority, its officers, agents, employees, and volunteers, a waiver of any right to subrogation which any insurer of the grantee may acquire against the Authority, its officers, agents, employees, and volunteers, by virtue of the payment of any loss under such insurance. Grantee agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the grantee has received a waiver of subrogation endorsement from the insurer.
  - c. The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

- (i) The Authority, its officers, agents, employees, and volunteers are to be covered as additional insureds with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the grantee; and with respect to liability arising out of work or operations, including completed operations, performed by or on behalf of the grantee including materials, parts or equipment furnished in connection with the work or operations.
  - (ii) For any claims related to this agreement, the grantee's insurance coverage shall be primary insurance as respects the Authority, its officers, agents and employees, and not excess to any insurance or self-insurance of the Authority.
  - (iii) The limits of the additional insured coverage shall equal the limits of the named insured coverage regardless of whether the limits of the named insurance coverage exceed those limits required by this agreement.
5. **Acceptability of Insurers.** Insurance shall be placed with insurers admitted to transact business in the State of California and having a current Best's rating of "B+:VII" or better or, in the alternative, acceptable to the Authority and approved in writing by the Executive Officer.
6. **Verification of Coverage.** The grantee shall furnish the Authority with original certificates and amendatory endorsements, or copies of the applicable policy language, effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the Executive Officer before work commences. The Authority may require, at any time, complete, certified copies of all required insurance policies, including endorsements affecting the coverage.
7. **Contractors.** The grantee shall include all contractors as insureds under its policies or shall require each contractor to provide and maintain coverage consistent with the requirements of this section. To the extent generally available, grantee shall also require each professional contractor to provide and maintain Errors and Omissions Liability insurance appropriate to the contractor's profession and in a reasonable amount in light of the nature of the project.
8. **Premiums and Assessments.** The Authority is not responsible for premiums and assessments on any insurance policy.

### **AUDITS/ACCOUNTING/RECORDS**

The grantee shall maintain financial accounts, documents, and records (collectively, "records") relating to this agreement, in accordance with the guidelines of "Generally Accepted Accounting Principles" ("GAAP") published by the American Institute of Certified Public Accountants. The records shall include, without limitation, evidence sufficient to reflect properly the amount, receipt, deposit, and disbursement of all funds related to the implementation of the project, and the use, management, operation and maintenance of the real property. Time and effort reports are also required. The grantee shall maintain adequate supporting records in a manner that

permits tracing from the request for disbursement forms to the accounting records and to the supporting documentation.

Additionally, the Authority or its agents may review, obtain, and copy all records relating to performance of the agreement. The grantee shall provide the Authority or its agents with any relevant information requested and shall permit the Authority or its agents access to the grantee's premises upon reasonable notice, during normal business hours, to interview employees and inspect and copy books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with this agreement and any applicable laws and regulations.

The grantee shall retain the required records for a minimum of three years following the later of final disbursement by the Authority, and the final year to which the particular records pertain. The records shall be subject to examination and audit by the Authority and the Bureau of State Audits during the retention periods.

If the grantee retains any contractors to accomplish any of the work of this agreement, the grantee shall first enter into an agreement with each contractor requiring the contractor to meet the terms of this section and to make the terms applicable to all subcontractors.

The Authority may disallow all or part of the cost of any activity or action that it determines to be not in compliance with the requirements of this agreement.

### **COMPUTER SOFTWARE**

The grantee certifies that it has instituted and will employ systems and controls appropriate to ensure that, in the performance of this agreement, Authority funds will not be used for the acquisition, operation or maintenance of computer software in violation of copyright laws.

### **NONDISCRIMINATION**

During the performance of this agreement, the grantee and its contractors shall not deny the agreement's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. The grantee shall insure that the evaluation and treatment of employees and applicants for employment are free of such discrimination. The grantee and contractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12900 et seq.), the regulations promulgated thereunder (Cal. Code Regs., tit. 2, §11000 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Gov. Code §§11135-11139.5), and the

regulations or standards adopted by the Authority to implement such article. The grantee shall permit access by representatives of the Department of Fair Employment and Housing and the Authority upon reasonable notice at any time during the normal business hours, but in no case less than 24 hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or the Authority shall require to ascertain compliance with this clause. The grantee and its contractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. (See Cal. Code Regs., tit. 2, §11105.)

The grantee shall include the nondiscrimination and compliance provisions of this clause in all contracts to perform work under this agreement.

### **PREVAILING WAGE**

Work done under this grant agreement may be subject to the prevailing wage and other related requirements of the California Labor Code, Division 2, Part 7, Chapter 1, sections 1720-1861. If required by law to do so, the grantee shall pay prevailing wage to all persons employed in the performance of any part of the project and otherwise comply with all associated requirements and obligations.

The grantee shall review applicable statutory provisions and the regulations adopted under the provisions and the information available on the Department of Industrial Relations website (<http://www.dir.ca.gov/Public-Works/PublicWorks.html>) to determine its responsibilities. For additional information, the grantee may also review the State Coastal Conservancy's publication, *Information on Current Status of Prevailing Wage Laws for State Coastal Conservancy Grantees (March 2015)*, available from the Authority on request.

### **INDEPENDENT CAPACITY**

The grantee, and the agents and employees of grantee, in the performance of this agreement, shall act in an independent capacity and not as officers or employees or agents of the Authority.

### **ASSIGNMENT**

Without the written consent of the Executive Officer, the grantee may not assign this agreement in whole or in part.

### **TIMELINESS**

Time is of the essence in this agreement.

### **EXECUTIVE OFFICER'S DESIGNEE**

The Executive Officer shall designate an Authority project manager who shall have authority to act on behalf of the Executive Officer with respect to this agreement. The Executive Officer shall notify the grantee of the designation in writing.

### **AMENDMENT**

Except as expressly provided in this agreement, no changes in this agreement shall be valid unless made in writing and signed by the parties to the agreement. No oral understanding or agreement not incorporated in this agreement shall be binding on any of the parties.

### **LOCUS**

This agreement is deemed to be entered into in the County of Alameda.

### **SURVIVAL**

The obligations in the "INDEMNIFICATION AND HOLD HARMLESS" section, above, shall survive the termination of this agreement.

Exhibit 1

Exhibit 1: Project Location Map

Exhibit 2

SAN FRANCISCO BAY RESTORATION AUTHORITY

Staff Recommendation